HONOURABLE SMT.JUSTICE T.MEENA KUMARI

&

HONOURABLE JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO. 16195 OF 2005

&

W.V.M.P.No:2480 of 2005 in W.P.M.P.No:20570 of 2005

Dated 13-09-2005

Between:

1. N. Sreedhar, son of late Sri Veera Swamy, aged 35 years, Occupation: Assistant Executive Enginer, Office of the Executive Engineer, FFC Division No.3, LMD Colony, Karimnagar, and others.

.....Petitioners.

And:

1. The State of Andhra Pradesh rep. by its Principal Secretary to Government, Irrigation and CAD Department, Secretariat, Hyderabad and others.

.....Respondents

ORDER : (Per the Honourable Smt. Justice T.Meena Kumari)

This writ petition has been filed by the writ petitioners against the order passed in O.A. No. 2051 of 2005, dated 28-04-2005 by the A.,P. Administrative Tribunal Hyderabad.

The applicants are the writ petitioners herein. Originally, the applicants filed an application in O.A.No:2051 of 2005 before the tribunal seeking a direction to the respondents to consider their case for promotion to the post of Dy. Executive Engineers in preference to the respondents 3 to 10 by declaring the action of the respondents in considering the case of the respondents 3 to 10 for promotion as Dy. Executive Engineer as illegal and arbitrary. The applicants,

along with the above O.A., sought interim relief seeking to consider the case of the applicants for promotion to the post of Dy. Executive Engineer in preference to the respondents 3 to 10. The tribunal while admitting the O.A. directed the respondents to follow the orders of this Court in W.P.M.P. No.23015 of 2004 and W.V.M.P. No.3817 of 2004 in W.P. No.17572 of 2004, for considering the cases of the applicants and the respondents. Aggrieved by the same, the present writ petition has been filed by the applicants.

Heard the learned counsel and perused the material available on record.

It is contended by the learned counsel for the applicants that they are the direct recruitees as Assistant Executive Engineers whereas the unofficial respondents are the promotees to the said post pursuant to G.O.Ms.No:22, I & CAD, dated 4.2.1991 and therefore, while effecting promotions to the post of Deputy Executive Engineer, order of preference shall be given to them and therefore, the fax issued by the Government, is liable to be set aside.

A perusal of the order dated 11-04-2005 passed by a Division Bench of this Court in WPMP No.23015 of 2004 and WVMP No.3817 of 2004 in W.P. No. 17572 of 2004 goes to show that “If the writ petitioners were already promoted and still there are vacancies in the cadre of Deputy Executive Engineer, the case of the Vacate petitioner can be considered in accordance with the Rules, after taking into regularization. In case some of the writ petitioners are yet to be considered, their case also shall be considered according to Rules.”

While admitting the present writ petition, a Division Bench of this Court has passed an interim direction to the respondents not to consider the case of respondents-3 to 10 for promotion to the next cadre and suspended the Fax memo in question. Aggrieved by the same, the present W.V.M.P. is filed by the unofficial respondents seeking to vacate the same.

As a matter of fact, the writ petition is an out come of an interim order passed by the tribunal. Therefore, the question as to whether the applicants are the direct recruitees and as to whether the unofficial respondents are the promotees pursuant to the G.O. in question and as to whether the order of preference shall be given to the applicants while considering the promotions, are all the matters to be adjudicated in the main O.A. itself, but not at this interlocutory stage. In the present facts and circumstances of the case and in

view of the pendency of W.P.17572 of 2004, which was filed for the same relief in question by some of the employees and in view of the pendency of the main O.A., and also in view of the fact that this is a second round of litigation for the self same relief by the applicants, We feel that the finding, if any given by this Court at this interlocutory stage, may touch the very merits of the main O.A.

Therefore, without expressing any opinion on the merits of the case, We deem it appropriate to direct the tribunal to dispose of the O.A. as expeditiously as possible.

At this stage, it is submitted by the learned counsel for the unofficial respondents-vacate stay petitioners that they have already been promoted and as such, their promotions may not be affected till the disposal of the O.A.

Accordingly, the writ petition is disposed of with a direction to the tribunal to dispose of the O.A. within a period of three months from the date of receipt of a copy of this order. No costs.

However, it is made clear that the unofficial respondents-vacate stay petitioners shall not be disturbed till the disposal of the main O.A. Accordingly, W.V.M.P. is disposed of.

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Justice T. MEENA KUMARI

Date: 13th September, 2005

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Justice P. LAKSHMANA REDDY

Dvs/Gurc

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(Order delivered by the Honourable

Smt. Justice T.Meena Kumari)

Dated 13-09-2005